

REMARKS

Claims 1-3, 6-10 and 12 have been rejected under 35 USC 102(e) as anticipated by Nikander. The rejection is respectfully traversed.

Nikander discloses a communications system similar to the one which has already been described by Morrill (US 5,991,749), previously used to reject the claims. According to Nikander, communications terminals or subscribers are connected via a wired or wireless communications network, as well as via an ISP 105 and via the Internet 116 connected to it, with a target communications terminal or with a target party (see “Merchant” 130, figure 6). Nikander (like Morrill) discloses nothing other than different developments of cashless electronic payment methods in the framework of Internet connections, which have already been established or set up.

The method of Nikander is only executable with connections or Internet connections which already exist, or has been established and can be seen solely from the fact that “Intercepting means 120” are arranged in the ISP 105, through which data traffic running via an established Internet connection is interrupted in order to carry out a payment process between the subscriber and a payment interface. The basic functions of the intercepting means 120 are described in more detail in Nikander, column 7, lines 30 to 45. Thus, incoming data packets are examined by the intercepting means as to whether they contain “Electronic Money Traffic” or are only normal data packets. In the case that “Electronic Money Traffic” is detected, these special data packets are routed by the “Intercepting Means” to “Electronic Money Transaction Means” especially provided for this. Significantly, in Nikander, previously established Internet data connections exist via which data packets are transmitted within the framework of previously established communication connections. This means that in the case of Nikander the Internet access network is already in use by the mobile communications terminal before a payment via a commercial interface takes place, which is contrary to the present invention.

Thus, Nikander shows a user in figure 6 connected via a mobile communications network to an ISP system 105, see also columns 11, line 59, to column 12, line 10. A user connected to the ISP means that her/his terminal is already logged on and registered on the mobile

communication network 200, i.e. the Internet access network through the communications terminal of the subscriber is already being used without prior successful cashless payment. As already explained in previously filed responses, the present invention is patentably distinct from Nikander because there is no subscriber registered in the mobile network or the Internet, and no Internet connection is already established, which would be considered a prerequisite.

The Examiner comments that “nowhere in any in [sic] the claims does the Applicant claim a subscriber registered in the mobile network or Internet, and no Internet connection is already established.” The claims (claim 1) has been amended for improved clarity. In the claimed invention, as amended, unregistered mobile communications terminals are assumed, i.e. mobile communications terminals which neither are registered with an Internet provider nor already have established connections on the Internet via this Internet provider. According to the invention, a log-in of a mobile communications terminal can take place on an arbitrary Internet access network without previously completed registration with an arbitrary Internet provider, where a traffic exchange relationship to a commercial interface for cashless payment is established before the point in time of any use of a service via the Internet access network. Only after a cashless payment has taken place can the Internet access network of the respective Internet provider and diverse Internet services be used by the user. The payment methods following from Nikander teach away from the present application since in Nikander an arrangement with the network operator must be agreed to before the first possible payment, which means the loss of the free choice, according to the invention, of the Internet access network or operator. See, for example, “The user can set up the policy with the ISP in many ways” - column 5, lines 46-52; “...if the user has informed the ISP of his bank and his bank account” - column 6, lines 46, 47.

Claims 4-5 and 11 have been rejected under 35 USC 103(a) as unpatentable over Nikander in view of Jonstromer. The rejection is respectfully traversed for the same reasons presented in the arguments above.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to

withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 449122031000.

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Respectfully submitted

By 

Kevin R. Spivak

Registration No.: 43,148

MORRISON & FOERSTER LLP

1650 Tysons Blvd, Suite 300

McLean, Virginia 22102

(703) 760-7762